APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,081	10/31/2003	Boaz Carmeli	IL920030027US1	1840

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EXAMINER
MEW, KEVIN D

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
08/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/699,081	CARMELI ET AL.
		Examiner	Art Unit	
		Kevin Mew	2616	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>13 July 2008</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>13-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>13-21</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Response to Amendment

1.   Applicant's Remarks/Arguments filed on 7/13/2008 have been considered. Claims 1-12

have been cancelled and claims 18-21 have been newly added by applicant. Claims 13-21 are

currently pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 13-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Rajkumar et al.

(USP 7,391,769).

Regarding claim 13, Rajkumar discloses a method comprising:

adjusting the size of aggregated data packets (adjusting the size/number of packets per

aggregate packets, col. 6, lines 33-45, col. 2, lines 53-56, col. 5, lines 36-49) based at least on

network congestion (based on system loading which gives an indication on how close the system

is reaching its capacity, col. 6, lines 2-16, 24-37, col. 5, lines 36-45).

Regarding claim 14, Rajkumar discloses a method according to claim 13 and wherein said adjusting comprises:

aggregating in a buffer (aggregating in buffer 102, col. 6, lines 38-45 and Fig. 1) at least two small messages (one or more packets, col. 6, lines 57-61) received from an upper layer (receiving from a signal encoder, col. 4, lines 6-27) into a packet (into an aggregate packet, col. 4, lines 57-61);

providing said packet to a pending queue (providing the aggregate packet to buffer 106, col. 6, lines 59-65 and Fig. 1); and

passing packets to a network device (transmitting packets to a receiver 150, Fig. 1 and col. 7, lines 18-23).

selecting packets from said pending queue (selecting packets from buffer 106) or said buffer depending on whether or not said pending queue is empty (depending on whether buffer 106 needs to perform buffer management; note that not performing buffer management is interpreted as the buffer being empty, col. 7, lines 1-17).

Regarding claim 15, Rajkumar discloses a method according to claim 14 and also comprising indicating the status of reception of said packets (a lower quality of service is detected when the system is near its capacity that a medium user will may not be able to transmit at a relatively high rate and a low user may have its communication abruptly terminated, col. 5, lines 62-66, col. 6, lines 1-9).

Regarding claim 16, Rajkumar discloses a method according to claim 14 and wherein said passing operates at a rate related to network congestion (transmitting aggregate packets at rates different from the fixed rate depending the system loading conditions, col. 6, lines 52-67).

Regarding claim 17, Rajkumar discloses a method according to claim 16 and wherein said network congestion may be any one of the following: transmitter congestion, receiver congestion and congestion of network elements (system is near its capacity, col. 6, lines 29-32).

Regarding claim 18, Rajkumar discloses a method comprising:

aggregating in a buffer (aggregating in buffer 102, col. 6, lines 38-45 and Fig. 1) at least two small messages (one or more packets, col. 6, lines 57-61) received from an upper layer (receiving from a signal encoder, col. 4, lines 6-27) into a packet (into an aggregate packet, col. 4, lines 57-61);

providing said packet to a pending queue (providing the aggregate packet to buffer 106, col. 6, lines 59-65 and Fig. 1); and

passing packets to a network device (transmitting packets to a receiver 150, Fig. 1 and col. 7, lines 18-23).

selecting packets from said pending queue (selecting packets from buffer 106) or said buffer depending on whether or not said pending queue is empty (depending on whether buffer 106 needs to perform buffer management; note that not performing buffer management is interpreted as the buffer being empty, col. 7, lines 1-17).

Regarding claim 19, Rajkumar discloses a method according to claim 18 and also comprising indicating a reception status for said packets (a lower quality of service is detected when the system is near its capacity that a medium user will may not be able to transmit at a relatively high rate and a low user may have its communication abruptly terminated, col. 5, lines 62-66, col. 6, lines 1-9).

Regarding claim 20, Rajkumar discloses a method according to claim 18 and wherein said passing operates at a rate related to network congestion (transmitting aggregate packets at rates different from the fixed rate depending the system loading conditions, col. 6, lines 52-67).

Regarding claim 21, Rajkumar discloses a method according to claim 18 and wherein said network congestion may be any one of the following: transmitter congestion, receiver congestion and congestion of network elements (system is near its capacity, col. 6, lines 29-32).

Response to Arguments

3.   Applicant's arguments with respect to claims 13-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kevin Mew whose telephone number is 571-272-3141. The

examiner can normally be reached on 9:00 am - 5:30 pm.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

        Kevin Mew   /K. M./   /Chi H Pham/
        Examiner, Art Unit 2616   Supervisory Patent Examiner, Art Unit
                                                          2616
                                                          7/31/08